

### **REMARKS/ARGUMENTS**

These remarks are submitted in response to the Notice of Non-Compliant Amendment of July 1, 2008 (Notice). As this submission is timely filed within the 1-month shortened statutory period, no fee is believed due. However, the Office is expressly authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 50-0951.

It is stated in the Notice that amended Claims 1-20 and 23-46 are directed to an invention that is independent or distinct from the invention originally claimed. Applicants respectfully, but emphatically, disagree for the reasons stated herein.

#### **Previously-Submitted Response To Office Action**

At this juncture it may be useful to review the recent history of the Application to this point. Applicants submitted a response on April 3, 2008. The response was Applicants' reply to the Office Action of January 3, 2008, mailed after Applicants had filed a Request for Continued Examination. In their April 3, 2008 submission Applicants made a sincere effort to address the 35 U.S.C. § 112 rejections asserted in the Office Action. Through the amendments then submitted, Applicants sought both to clarify the claimed invention in view of the 35 U.S.C. § 112 rejections as well as to emphasize certain features of the invention so as to expedite prosecution of the Application.

#### **Claims As Presently-Formulated Are Not Directed To Independent Or Distinct Invention**

The Notice specifically states that the "[originally-filed] claims," Claims 1-20 and 23-46, are directed to systems and methods for "negotiating an agreement based on a plurality of merchant-specified incentives and a *single* consumer-specified minimum value." (Notice, page 2.) (Emphasis supplied.) The Notice goes on to state as follows:

"In contrast, newly amended claims 1-10 and 23-36 recite a separate and distinct invention which identifies systems and methods for determining a plurality of consumer minimum values based on information provided by a consumer, determining a plurality of incentives based on information provided by a merchant, and negotiating an agreement. Newly amended claims 11-20 and 37-46 recite a separate and distinct invention which identifies a system and methods for determining a *plurality* of consumer minimum values based on information provided by a consumer and negotiating an agreement based on the consumer minimum values and a plurality of merchant-specified incentives." (Notice, p. 2) (Emphasis supplied.)

***Claims 11-20 and 37-46 Do Not Recite A Plurality Of Consumer Minimum Values***

As an initial matter, with respect specifically to Claims 11-20 and 37-46, Applicants respectfully note that that none of Claims 11-20 or 37-46 recite a *plurality* of consumer minimum values. Independent Claims 11 and 37 both recite retrieving a plurality of cash or cash-equivalent incentives, but only recite determining a consumer-specific valuation. Moreover, the consumer-specific information was not added by amendment in the last response, but already appeared in the claims prior to Applicants' last amendment. The determining step corresponds, at least in part, to the previous formulation's comparing step.

***Claims 1-20 and 34-46***

More fundamentally, Claims 1-20 and 34-46 are not directed to aspects that are independent or distinct inventions from those of the claims as formulated prior to the amendments. Each of the claims includes the previously recited steps of identifying an asking price and retrieving merchant business objectives (MBOs) from memory. The

merchant valuation is based on the MBO. Likewise the consumer-specific minimal valuation is based on retrieved consumer privacy rules (CPRs), which also appeared in earlier formulations of the claims prior to Applicants' last amendments. More fundamentally, while the claim amendments were intended to clarify aspects of the invention, while emphasizing certain features more specifically, the claims remain directed explicitly to negotiating a transaction.

**Request For Entry Of The Claim Amendments Or, In The Alternative, Clarification Of Which Aspects Of The Claims Constitute An Independent Or Distinct Invention**

In view of the foregoing discussion, Applicants respectfully submit that the previously-submitted amendments clarify embodiments of the invention while emphasizing particular aspects of those embodiments. Accordingly, Applicants respectfully maintain that the withdraw of Claims 1-20 and 23-46 from consideration is improper. Applicants respectfully request that the claim amendments be entered and that the claims be examined on the merits.

In the alternative, Applicants respectfully request that the Examiner articulate the basis and underlying rationale for the briefly-stated conclusion set forth in the Notice and quoted above. Applicants respectfully maintain that absent such, they are denied an opportunity to adequately address the conclusions stated in the Notice.

**CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Application No. 09/897,226  
Response dated August 1, 2008  
Reply to Notice of Non-Comp. Amendment dated July 1, 2008  
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Respectfully submitted,

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